

AMENDED IN SENATE MAY 10, 2012

AMENDED IN SENATE MAY 2, 2012

SENATE BILL

No. 1451

Introduced by Senator Calderon

February 24, 2012

An act to amend Sections 11162 and 11163 of, and to add Section 11163.5 to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1451, as amended, Calderon. Insurance: fraternal benefit societies: loans.

Existing law governs the organization of fraternal benefit societies, which, among other characteristics, are nonprofit, incorporated societies, orders, or supreme lodges, without capital stock, conducted solely for the benefit of members and their beneficiaries, have a representative form of government, and make provision for the payment of benefits. Existing law authorizes these entities to provide all forms of life and disability insurance, except as specified. Existing law makes it a felony for any officer, director, agent, or employee of any fraternal benefit society to borrow funds of the society, to become endorser or surety for loans by the society to others, or to be obligor for moneys borrowed or loaned by the society. Existing law also makes it a felony for an officer, trustee, agent, or employee of a fraternal benefit society to ask, receive, or consent or agree to receive anything of value for procuring or endeavoring to procure a loan to any person from the trust funds of, or funds belonging to, a fraternal benefit society.

This bill would except from these prohibitions, loans made by a fraternal benefit society to a member of the society under certain conditions and loans made to a life licensee, as defined, appointed by

the fraternal benefit society, under specified conditions, including that the loan is not made to an officer or director of the society, that the loan is secured *and contains a repayment provision* in accordance with ~~insurance the industry practices custom and practice of life insurers for that loan~~ *loans to life licensees*, and that no officer, director, agent, or employee of the society, other than the life licensee, receives consideration due to the making of the loan. *The bill would provide that the loan is to enable the licensee to, among other things, lease an office and pay for other expenses related to selling the society's certificates. The bill would also specify that the loan may be based on a good faith estimate of expenses or reimbursements, but may not cover expenses incurred or estimated to be incurred after 180 days from the date the licensee is appointed, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11162 of the Insurance Code is amended
2 to read:
3 11162. Except as provided in Section 11163.5, it is a felony,
4 punishable by imprisonment pursuant to subdivision (h) of Section
5 1170 of the Penal Code, for any officer, director, agent or employee
6 of any fraternal benefit society to, directly or indirectly, for himself
7 or as partner or agent of others:
8 (a) Borrow any of the funds of such society.
9 (b) Become endorser or surety for loans by the society to others.
10 (c) In any manner be obligor for moneys borrowed or loaned
11 by such society.
12 SEC. 2. Section 11163 of the Insurance Code is amended to
13 read:
14 11163. Except as provided in Section 11163.5, it is a felony,
15 punishable by imprisonment pursuant to subdivision (h) of Section
16 1170 of the Penal Code, for any officer, trustee, agent or employee
17 of a fraternal benefit society to ask, receive, or consent or agree
18 to receive anything of value for procuring or endeavoring to
19 procure a loan to any person from the trust funds of, or funds
20 belonging to, a fraternal benefit society.
21 SEC. 3. Section 11163.5 is added to the Insurance Code, to
22 read:

11163.5. Sections 11162 and 11163 shall not prohibit the following:

(a) A loan by a fraternal benefit society to a member made under the provisions of a certificate form available to members of the society in the ordinary course of the society's business.

(b) A loan to a life licensee, as defined in Section 1626, appointed by the fraternal benefit society pursuant to Section 1704, if all of the following apply:

(1) The loan is not made, directly or indirectly, to an officer or director of the society.

(2) The loan is secured *and contains a repayment provision in accordance with—insurance the industry—practices custom and practice of life insurers for these loans to life licensees.*

(3) No officer, director, agent, or employee of the society, other than the life licensee, receives any consideration due to the making of the loan.

(4) The loan is ~~for the purpose of enabling~~ *to enable* the licensee to lease an office, lease or purchase office equipment or supplies, or pay for other expenses related to selling the society's certificates ~~for not more than six months.~~ *The amount of the loan may be based on a good faith estimate of expenses, reimbursement of expenses, or a combination of these methods. The loan may not cover expenses incurred or estimated to be incurred after 180 days from the date the licensee is appointed pursuant to Section 1704.*